

PH7442 NP
10/776828REMARKS

Reconsideration and reexamination is respectfully requested.

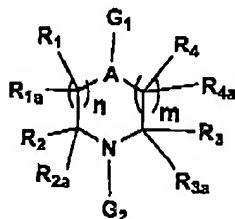
Claims 1, 2, 4, 6, 7, 10, 11, and 18 have been amended to delete the unelected subject matter. Claims 15, 20, 21, 22, 27, 28, 30-36 are hereby canceled as being drawn to unelected subject matter.

Claims 1-36 were subject to a restriction requirement and the Examiner limited the scope of the invention as defined in the Office Action. It is respectfully requested that the Examiner consider the claims as amended to be included within the restriction requirement.

Claims 1-19 were rejected under Section 103 as being unpatentable over Ewing et al. Applicants respectfully submit that the reference does not constitute a prima facie case of obviousness. A prima facie case of obviousness requires that three requirements must be satisfied: (1) the prior art relied upon must contain some suggestion or motivation for modifying or combining the references: (2) the proposed modifications must have had a reasonable expectation of success; and (3) the references must teach or suggest all claim limitations.

Regarding the first two elements of this test, both the motivation to combine/modify the references and the expectation of success must be found in the prior art, not based on applicant's disclosure.

The Ewing et al. reference discloses compounds of the formula

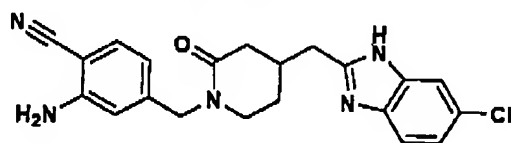


which are inhibitors of Factor Xa and are useful for treating disorders related to blood coagulation and wherein (in part) A

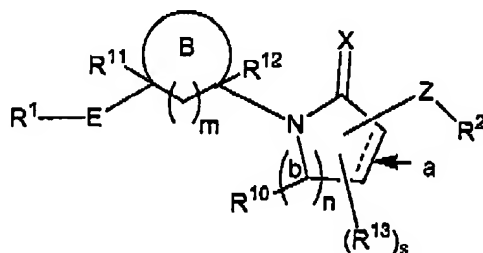
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is CH or N; m and n are independently 0, 1, and 2; and R¹ and R^{1a}, and R² and R^{2a}, R³ and R^{3a}, or R⁴ and R^{4a} taken together form O or S. An example of a piperidine disclosed in Ewing et al. is 2-amino-4-[4-(6-chloro-1H-benzimidazol-2-ylmethyl)-2-oxo-piperidin-1-ylmethyl]benzonitrile which is shown below (see page 49, line 25 of Ewing et al. other piperidines are disclosed within the publication).



By contrast, in the present application, claim 1 is directed to compounds of formula (I)



(I)

which are inhibitors of CCR2 and are useful in the treatment of inflammatory diseases.

In the instant case, there is no teaching, suggestion or motivation in Ewing et al. that would lead a skilled artisan to modify the compounds disclosed therein to obtain compounds as claimed in the instant invention. Furthermore, there is no teaching, suggestion or motivation in Ewing et al. that would lead a skilled artisan to modify the Factor Xa compounds of Ewing et al. which are useful in treating thrombosis in such a way to obtain compounds which are inhibitors of CCR2 and useful in the treatment of inflammatory diseases.

Because the reference does not disclose, teach or fairly suggest the compounds of the instant invention, withdrawal of the Section 103 rejection is respectfully requested.

Claims 24-26 and 29 were withdrawn from consideration as being drawn to a nonelected invention. The claims are method

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of treatment claims dependent upon claim 1. Upon a finding that claim 1 is allowable, rejoinder of these claims is respectfully requested.

New claims 37 and 38 are being submitted for the Examiner's consideration. Support for the new claims may be found in the claims as originally filed. No new matter is being added in these claims.

The application is believed to be in condition for acceptance and notification thereof is respectfully requested. The Examiner is welcomed to call Applicants' representative if he feels a telephone interview would further prosecution of this application.

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Respectfully submitted,

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